

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ISIDRO HERNANDEZ-RAMIREZ,

Plaintiff,

v.

Civil Action No. 2:06cv73

**UNITED STATES OF AMERICA
and INS,**

Defendants.

ORDER

Plaintiff, a state prisoner proceeding pro se in the above-styled civil rights action, seeks compensatory damages for the allegedly illegal deportation order that has resulted in his current incarceration. It will be recalled that on October 17, 2006, Magistrate Judge Seibert filed his Report and Recommendation, wherein the Plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. While Plaintiff has not filed any Objections to the Magistrate Judge's Report and Recommendation, he has filed two Motions to Transfer.

Upon examination of the report from the Magistrate Judge, the Court agrees that Plaintiff's claim is not properly before this Court, as more specifically set forth in the Magistrate Judge's Report and Recommendation. The Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Furthermore, upon careful consideration of the Plaintiff's Motions to Transfer, the Court finds that as a civil rights action is not the proper course for bringing those claims made by Plaintiff before a court of proper jurisdiction, that transfer of

this matter would not be in the best interests of judicial efficiency. Therefore, based upon the aforementioned findings, it is

ORDERED that Magistrate Judge Seibert's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's civil rights complaint be, and the same hereby is, **DISMISSED** without prejudice to Plaintiff's right to refile his claims pursuant to a writ of habeas corpus in a court of proper jurisdiction. It is further

ORDERED that Plaintiff's Motions to Transfer be, and the same hereby are, **DENIED**. It is further

ORDERED that the Clerk shall enter judgment for the Defendant. It is further

ORDERED that this matter be **STRICKEN** from the docket of this Court. It is further

ORDERED that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: June 22nd, 2007

/s/ Robert E. Maxwell
United States District Judge